

## REMARKS

The allowance of claims 2-4 and 6-10 is noted with appreciation.

Reconsideration of the rejection of claim 1 under 35 USC §102(b) as unpatentable over Lee is respectfully requested. Claim 1 has been amended in light of the examiner's comments to preclude reading the claim in that manner. Specifically, claim 1 has been amended to recite that the plunger of the syringe is (1) free from engagement by the handle or by structure engaging or attached to the handle and (2) is easily engaged by the user's thumb for advancement by the user's thumb. It is believed that this language does not read on the Lee patent and that Lee, therefore, does not anticipate claim 1 as amended.

Furthermore, claim 1 as amended would not have been obvious to one of ordinary skill in the art in view of the Lee patent because the device shown by Lee specifically provides a trigger mechanism for operating a syringe to aspirate fluids, whereas the invention is specifically designed to expel fluids. Nothing in the art of record would have led one of ordinary skill in the art to modify the device of Lee to result in the invention of claim 1.

Reconsideration of the rejection of claims 1, 11, and 12 under 35 USC §102(b) as unpatentable over Cordner is respectfully requested.

Cordner teaches a complicated cradle for supporting two syringes such that squeezing a handgrip 78 advances the plungers of the two syringes. This structure is very different from that recited in claim 1. Claim 1 clearly recites that the cradle is configured to receive a barrel portion of a single syringe, whereas the cradle taught by Cordner supports the barrels of two syringes. Further, claim 1 now recites that the plunger is free from engagement of structure connected to the handle and that it is advanced by the user's thumb. Whether the user's thumb can touch engage the plunger may be argued, but it is clear that the Cordner device does not allow advancement of the plunger by engagement with the user's thumb and that the plunger is, instead, advanced by squeezing the handgrip. Thus, Cordner does not anticipate claim 1 as amended.

Claim 11 is written in means-plus-function format and must be construed in accordance with 35 USC 112, 6<sup>th</sup> paragraph to read on the structure disclosed in the application and equivalents. Thus, the recitation in claim 11 of "handle means for providing a grip for an operator's hand and a cradle for receiving the barrel of a single one of said syringes" must be construed to read on the handle 2, which includes the cradle portion 4 illustrated in the figures

and equivalents. The Cordner device is clearly not the disclosed structure or its equivalent because the Cordner cradle is specifically configured to receive the barrels of two syringes, whereas the claimed structure is configured to receive only a single barrel. Further, the recitation in claim 11 of “clip means for receiving the plungers of a plurality of said syringes and allowing simultaneous operation thereof” must be construed to read on the clips 13 and 14, which engage only the ends of the plungers and allow the operator to “operate the plunger with the thumb.” Thus, the invention recited in claim 11 is nothing like the structure shown in Cordner, and Cordner cannot, therefore, anticipate claim 11 under 35 USC 102.

Reconsideration of the rejection of claims 11 and 12 under 35 USC 103 as unpatentable over Fukunaga or Wolf in view of Lee is respectfully requested. As noted above, claim 1 recites structure that is configured to hold the barrel of a single syringe and includes a clip that allows the user to advance the plungers by engagement with his/her thumb. The combination proposed by the examiner would either not have been obvious or would not have produced this invention.

The examiner proposes that it would have been obvious to “use the teachings of Lee in the apparatus of Fukunaga or Wolf in order to deliver the contents of the syringe assembly with one hand.” It is submitted that the objective “teachings” of Lee include the teaching to aspirate fluids, and that, as such, it would simply not have been obvious to combine the features of Lee with those of Fukunaga or Wolf because the devices shown in those patents are for the application of fluids. Thus, the purpose of the device shown by Lee is opposed to that of Fukunaga and Wolf, and the two types of systems are completely incompatible. It is submitted, therefore, that the proposed combination is actually based on hindsight.

To the extent that the examiner is proposing the use only of selected features of Lee, it is submitted that such is either improper or would not result in the claimed invention. If only the handle 55 of Lee were somehow incorporated into the structures of Fukunaga or Wolf, the device would engage two syringe barrels, which would not result in the invention. This would also be improper because only a select feature would be incorporated and there is no suggestion at all to do this. If the proposal is to incorporate only the handle and syringe barrel holder section 60 but not the trigger guide section 30 and trigger member 90 and to eliminate the structures of Wolf and Fukunaga that support two barrels, it is a proposal clearly based on hindsight and improper.

It would simply not have been obvious to one of ordinary skill in the art to combine the "teachings" of a device designed to aspirate fluids by activation of a trigger with those of devices designed to apply fluids.

Accordingly, it is submitted that this application is in condition for allowance, and an early indication thereof is respectfully requested. The examiner is invited to contact the undersigned if any matter remains outstanding.

All necessary extensions of time are requested. Enclosed is a check (\$110) for a one-month extension of time. Please charge any necessary fees and credit any excess to deposit account 50-1088.

Respectfully Submitted,  
CLARK & BRODY



Conrad J. Clark  
Reg. No. 30,340

Suite 600  
1750 K Street NW  
Washington, DC 20006  
202-835-1111  
202-835-1755 (fax)  
March 4, 2004